REMARKS/ARGUMENTS

The amendment to the specification is desired to correct the misidentification of the comparative compound, MTM, which in Table 1 was disclosed to be [N-(1,1-dimethylethyl)-1,1-dimethyl-[1,2,3,3a,8a-η)-1,5,6,7-tetrahydro-2-methyl-s-indacen-1-yl]silanaminato(2-)-N] titanium dimethyl.

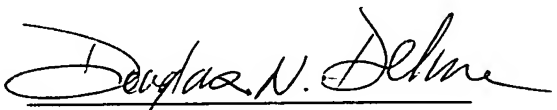
Applicants' claims 1, 2, 5 and 6 stand rejected under 35 U.S.C. §1.112, second paragraph, as allegedly being indefinite in the recitation as to the maximum carbon content (12) of R" aryl groups. The rejection is traversed in as much as numerous aryl groups of 12 carbons are known in the art (e.g., biphenyl, s-indacenyl, acenaphthyleneyl, etc.) let alone non-carbon containing aryl groups of 12 carbons. Reconsideration of the rejection is accordingly requested.

Applicant's claims 1-6 additionally stand rejected under 35 U.S.C. §103(a) over the teachings of USP 5,965,756 (McAdon, et al.) which generically disclosed 4-hydrocarbyl substituted indenyl derivatives as well as the specific compound, [N-(1,1-dimethylethyl)-1,1-dimethyl-[1,2,3,3a,8a-η)-1,5,6,7-tetrahydro-2-methyl-3-phenyl-s-indacen-1-yl]silanaminato(2-)-N] titanium dimethyl, differing only as to the location of the phenyl substituent in the indecenyl ring. According to the rejection, the present complexes were considered to be obvious variants of those disclosed in the prior art absent unexpected results, citing In re Jones, 162 F.2d 638, 74 USPQ 152 (CCPA 1947).

The rejection is believed to be in error, in as much as current law requires a showing of some basis in the art, specifically a suggestion or direction, for modification of the teachings of a primary reference. None has been supplied in the present instance. Reliance on hoary law regarding patentability rendered prior to the modern statutory requirement of non-obviousness (first articulated in the patent law in 1952, five years after In re Jones was decided) can hardly be substituted for the factual inquiries mandated by Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), which are specifically required for maintenance of rejections based on 35 U.S.C. §103(a) under the modern statute. The present record contains no teaching or suggestion leading the skilled artisan to the selection of an aromatic ligand at the 4 position from among the hydrocarbyl substituted indenyl or indecenyl metal complexes disclosed by McAdon, et al..

In view of the foregoing amendments and arguments, it is believed that the specification and all of applicant's claims 1-6 are in condition for allowance. Accordingly, applicant respectfully requests that a timely Notice of Allowance be issued in this application.

Respectfully submitted,



Douglas N. Deline
Registration No. 29,146
Phone: (989) 636-2938

P. O. Box 1967
Midland, MI 48641-1967